



NOAA Fisheries Service

Acropora sp. Final Listing under the ESA Frequently Asked Questions

Background



On March 4, 2004, the Center for Biological Diversity (CBD) petitioned NOAA Fisheries Service to list three *Acropora* sp., elkhorn, staghorn, and fused-staghorn coral, as either threatened or endangered under the ESA and to designate critical habitat. On June 23, 2004, NOAA Fisheries Service made a positive 90-day finding (69 FR 34995) that CBD presented substantial information indicating that the petitioned actions may be warranted and announced the initiation of a formal status review by convening an Atlantic *Acropora* Biological Review Team (BRT). Their status review (available at <http://sero.nmfs.noaa.gov/pr/protres.htm>) incorporates and summarizes the best available scientific and commercial data to date; and it addresses the status of the species, the five ESA listing factors, and current regulatory, conservation and research efforts that may yield protection.

What was NOAA Fisheries Service's determination?

On March 3, 2005, NOAA Fisheries Service made a determination that both elkhorn (*A. palmata*) and staghorn (*A. cervicornis*) corals are likely to become in danger of extinction throughout all or a significant portion of their range in the foreseeable future from a combination of factors. NOAA Fisheries Service relied on the status review developed by the BRT in coming to these conclusions. After considering input received during the proposed rule public comment period and at four public comment hearings, NOAA Fisheries Service announced its final determination to list these species as threatened under the ESA on May 4, 2006. The final rule implementing these listings will be published in the Federal Register.

What happens now that NOAA Fisheries Service has listed the two corals as threatened under the ESA?

When a species is listed as *endangered* under the ESA, it automatically receives certain protections, including the prohibition for anyone under the jurisdiction of the United States to "take" the species. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. When a species is listed as *threatened*, those same protections are not automatically transferred to the species. NOAA Fisheries Service must propose and publish a special rule to issue protective regulations and exemptions that it finds necessary and advisable to provide for the conservation of threatened species. This is called a 4(d) rule, as it is required by section 4(d) of the ESA.

Will NOAA Fisheries Service propose a 4(d) rule?

Because NOAA Fisheries Service finalized a threatened status for both species, we anticipate proposing a 4(d) rule to issue protective regulations and exemptions subsequent to publishing the proposed listing rule. During the development of the 4(d) rule, NOAA Fisheries Service will contact and coordinate with State/Territory and federal resource managers to identify activities that may adversely affect the species as well as potential take exemptions.





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<http://sero.nmfs.noaa.gov/pr/protres.htm>

Why isn't NOAA Fisheries Service proposing Critical Habitat at the same time as the Final Rule?

At this time, NOAA Fisheries finds that critical habitat designations are not determinable because more information is required to identify those physical and biological features essential to the conservation of the species. NOAA Fisheries has not more than one year from the date the final rule publishes to designate critical habitat.

Will NOAA Fisheries Service develop a Recovery Plan for the two species?



NOAA Fisheries Service is required to develop a recovery plan after a species is added to the Endangered Species List. Recovery is the process by which listed species and their ecosystems are restored and their future is safeguarded to the point that protections under the ESA are no longer needed. Although recovery *actions* can, and should, start immediately upon listing a species as endangered or threatened under the ESA, prompt development and implementation of a recovery *plan* will ensure that recovery efforts target limited resources effectively and efficiently into the future. The recovery plan serves as a road map for species recovery – it lays out where we need to go and how best to get there. NOAA Fisheries Service expects to convene a recovery team to develop the recovery plan for the two species, contingent upon receiving appropriations.

Who should be contacted for more information?

The Southeast Region Protected Resources Division is the lead in developing the rules and all subsequent management actions for these species. For more information, please contact:

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